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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,395	08/28/2001	Leo A. Trevino	ALLIA.62CP2C2	6627

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[REDACTED] EXAMINER

HARTLEY, MICHAEL G

[REDACTED] ART UNIT [REDACTED] PAPER NUMBER

1616

DATE MAILED: 08/27/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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Commissioner for Patents

See Attached.

Michael G. Hartley
Michael G. Hartley
Primary Examiner
Art Unit: 1616

Election/Restrictions

Newly submitted claims 2-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the originally presented and examined claims were drawn to a system for providing an ultrasound image comprising an ultrasound apparatus and a kit comprising a plurality of dry microbubble precursors comprising a first and second surfactant, wherein said first surfactant comprises a phospholipid having at least one acyl chain of 10 or more carbon atoms and a second surfactant which is more water soluble than the first. Such an imaging apparatus and kit would classify in 600/458. On the other hand, the newly added claims are drawn to a distinct invention. Namely, a microbubble preparation and kit thereof comprising two different gases specifically listed in a genus, which is surrounded by at least one denatured protein shell, which would classify in 424/491, as well as, cross in 424/9.52. This invention is distinct in that it very different from the originally claimed invention which was a system comprising an ultrasound apparatus, a dry precursor, a phospholipid surfactant. The instant claims are drawn to a mixture of gases (not present in the original invention) in a protein shell (also not present in the original invention), which is clearly distinct. It is further noted that the instant claims do not include limitations of use in ultrasound, as originally presented.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 2-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The amendment filed on canceling all claims drawn to the elected invention and presenting only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention for the reasons set forth above.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment.

EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.